

Application No.: 10/796,609
Filing Date: March 9, 2004

REMARKS

Claims 9-26, 29-34, and 37-49 are now pending in the present Application, Claims 1, 5-8, 35 and 36 having been canceled without prejudice or disclaimer, Claims 9, 10, 12-15, 17-19, and 24 having been amended, and new Claims 38-49 having been added. The claims set forth above include markings to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ or [[double brackets]] and additions being underlined.

In response to the final Office Action mailed March 19, 2009, Applicants respectfully request the Examiner to reconsider the above-captioned Application in view of the foregoing amendments and the following remarks.

The Specification Provides Proper Antecedent Basis

The Specification stands objected to for failing to provide proper antecedent basis for the claimed subject matter of Claim 10. Applicants respectfully traverse the present objection.

More specifically, the Specification stands objected to based on the recitations of Claim 10 including the “third and fourth groups”, as not being described in the specification. However, in order to expedite prosecution of the present Application, Applicants have amended Claim 10, 12-15, 17-19, and 24 to change the term "fourth group" to "second group".

With regard to this change, Applicants respectfully direct the Examiner to Figure 8 of the present Application, reproduced below.

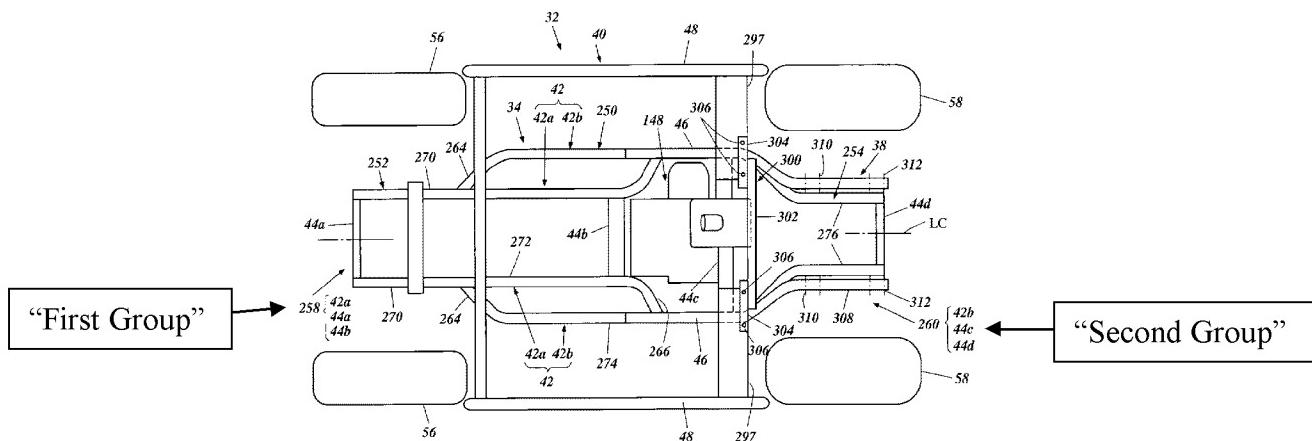


Figure 8

In the text of the Specification, at paragraph [0093], it is disclosed that the “first and second groups 258, 260 are offset fore to aft relative to each other and overlap with each other. For example, in the illustrated embodiment, the rear section of the first group 258 and a front

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section of the second group 260 overlap. In the illustrated arrangement, the rear members 42b generally extend outside of the front members 42a. In other words, the rear members 42b extend farther from the longitudinal center plane LC than the front members 42b.”

This feature is also recited in original Claim 9. Thus, Applicants submit that the features presently recited in Claim 10 are fully supported by the Specification as originally filed.

However, with regard to the use of the phrase "third group", Applicants submit that the use of the labels "first, second, third" are merely arbitrary labels used to make the claims more easily readable. Thus, Applicants submit that it is not necessary to indicate that any particular components in the specification can be referred to as a "first group" or a "third group".

In order to expedite prosecution of the presence Application, Applicants have amended paragraph [0093] to indicate that the "first group" can be referred to as a "third group". Additionally, Applicants have amended paragraph [0033] to indicate that the pair of frame members 46 can be referred to as a "first group".

Thus, the frame members 46 identified by the Examiner in the outstanding Office Action, can serve as the "first group" recited in Claim 9. The second group 260 included in the text of the Specification as originally filed can serve as the "second group" recited in the claims. Finally, the "first group 258" can serve as the "third group" recited in the claims.

Applicants have also amended Claims 12-15, 17-19, and 24 and have canceled Claims 35 and 36 without prejudice or disclaimer to provide better conformity with these changes to Claims 9 and 10.

As such, Applicants submit that the Specification provides clear antecedent basis for the recitations of Claims 9 and 10. Additionally, Applicants submit that since the use of the labels such as "first, second, and third" serve as merely arbitrary labels to enhance the readability of the claims, no new matter has been introduced.

Claim 37 Is In Condition For Allowance

Applicants gratefully acknowledge the Examiner's indication that Claim 37 is in condition for allowance.

Claims 9-24 And 29-36 Fully Satisfy The Requirements Of 35 U.S.C. § 112, Second Paragraph

Claims 9-24 and 29-36 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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Applicant regards as the invention. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present Application, Applicants have amended Claim 9 to make this claim more easily readable and not too narrow or affect the scope of this claim.

In particular, in response to the rejection of Claim 9 based on the lack of antecedent basis for the term "the engine", Applicants have amended Claim 9 to recite "prime mover".

In response to the rejection of Claim 19, based on the lack of antecedent basis for the terms "the front member" and "the rear member", Applicants respectfully point out that the second and third lines of the previous version of Claim 19 introduced these two phrases and thus previously contained proper antecedent basis. In any event, the present version of amended Claim 19 now reads "the rear section of the third group includes a front member and the front section of the second group includes a rear member".

Thus, Applicants submit that the present rejections are now moot.

Claims 9-11, 13, 15-17, 21, or 32-35 Define Over The Cited References

Claims 9-11, 13, 15-17, 21, and 32-35 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Enokimoto. Additionally, Claims 9, 21-23, and 32-34 stand rejected under 35 U.S.C. § 103(a) as being obvious over Rasidescu in view of Sato. Applicants respectfully traverse the present rejections. However, in order to expedite prosecution of the present Application, Applicants have amended Claim 9, in the manner discussed during the interview.

As discussed during the interview, Seto is directed to an all terrain vehicle that comprises a frame having seat rails 34 and a lower frame 30 that has a rear portion 35 that bends upwardly toward the rails 34. *See* Seto, col. 3, lines 42-59. This arrangement is illustrated below in Figure 1 of Seto.

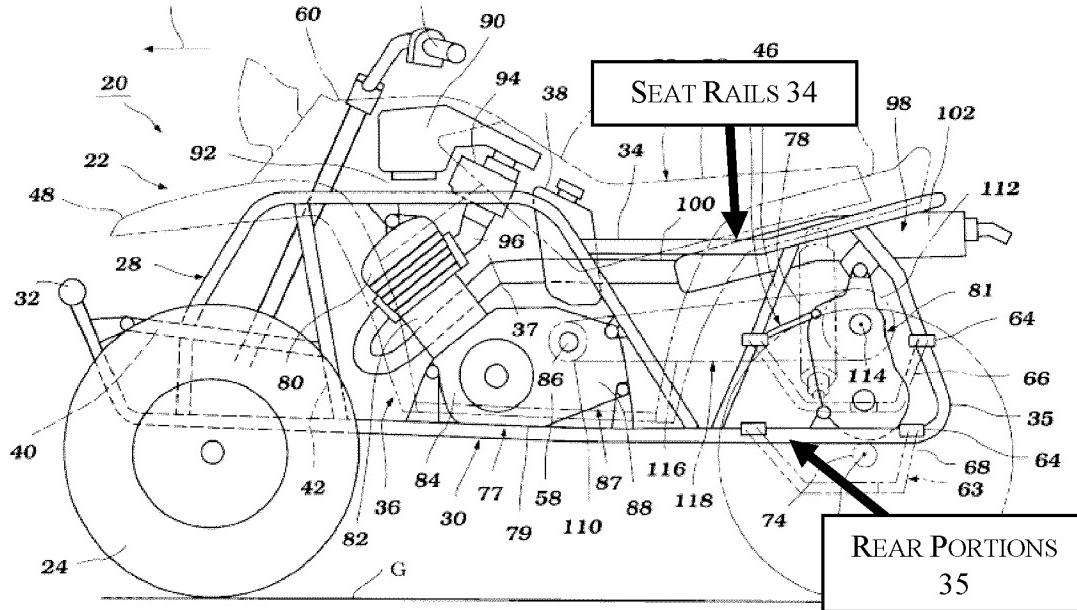
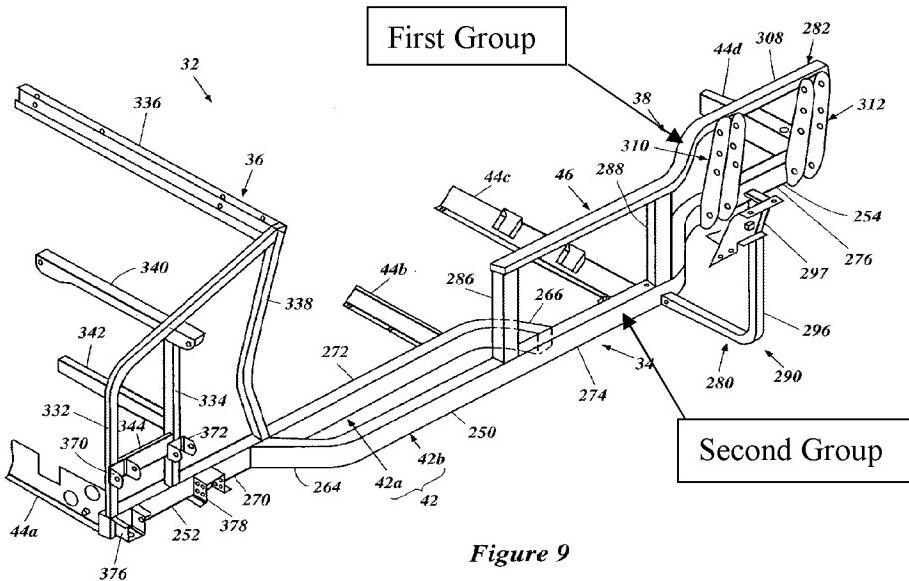


Figure 1

In contrast, as discussed during the interview, Claim 9 now recites "the first group comprising front portions extending along lateral sides of the prime mover, the front portions being spaced apart from each other at a first width in a lateral direction, the rear portions of the first group being spaced apart from each other at a second width in the lateral direction, the first width being larger than the second width, wherein the vehicle further comprises an exhaust system, at least a portion of the exhaust system being positioned between the frame members of the second group."

As discussed during the interview, a non-limiting embodiment of Claim 9 is illustrated in Figure 9 of the present Application, reproduced below.



During the interview, the Enokimoto, Rascidescu, and Sato references as well as the recitations of amended Claim 9 were reviewed in detail. As a result of the interview, it was agreed that amended Claim 9 defines over the cited references.

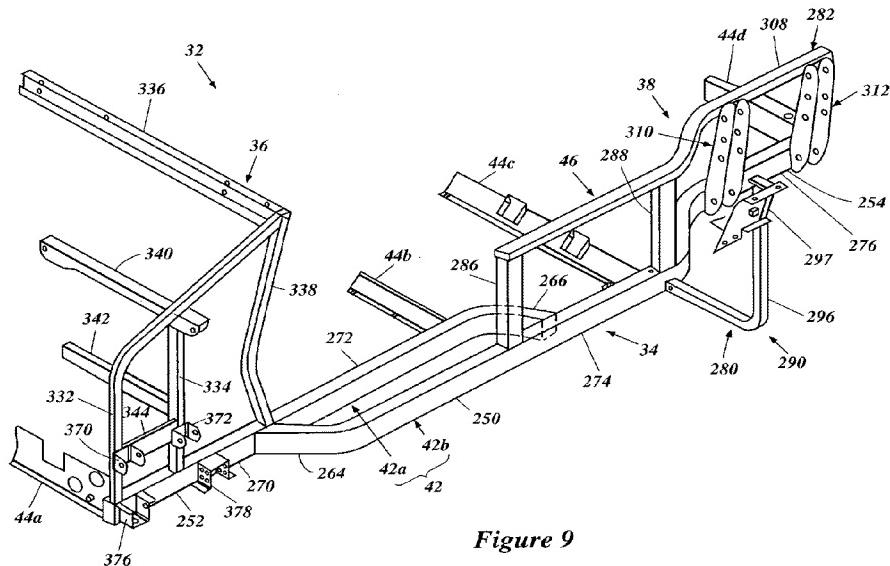
Additionally, Applicants submit that Claims 10, 11, 13, 15-17, 21, and 32-35 also define over the cited references, not only because they depend from Claim 9, but also on their own merit.
The Applied Combination Of Kosuge/Cross/Babitt/King Does Not Make
Claims 1, 5-8, 25, Or 26 Obvious

Claims 1, 5-8, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kosuge in view of Cross or Babitt or King. While Applicants reserve the right to prosecute these claims as originally filed, Applicants have, in accordance with the Examiners request, canceled Claims 1 and 6-8, and completely rewritten these claims as new Claims 38-49 with the goal of making these claims more easily readable.

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With regard to some of the initial recitations in new Claim 38, including the off-road vehicle including a plurality of wheels, left and right seats, and at least one prime mover disposed between the seats, Applicants respectfully direct the Examiner to Figures 1, 2, and 3 of the present Application.

With regard to the recitations of new Claims 38 directed to at least a left side frame assembly and a right side frame assembly, Applicants submit that Figure 9, reproduced below, illustrates an embodiment including a number of different frame members connected together forming a left side frame assembly. Applicants note that all of the frame members illustrated in Figure 9 or not required to form a "left side frame assembly" recited in new Claim 38. Rather, the term "left side frame assembly" could be formed from a single member or a subset of the members illustrated in Figure 9.



With regard to the recitations in new Claim 38 directed to a "removable cross frame member including a left side connection device.... and a right side connection device," Applicants respectfully direct the Examiner to Figure 7 of the present Application, reproduced below.

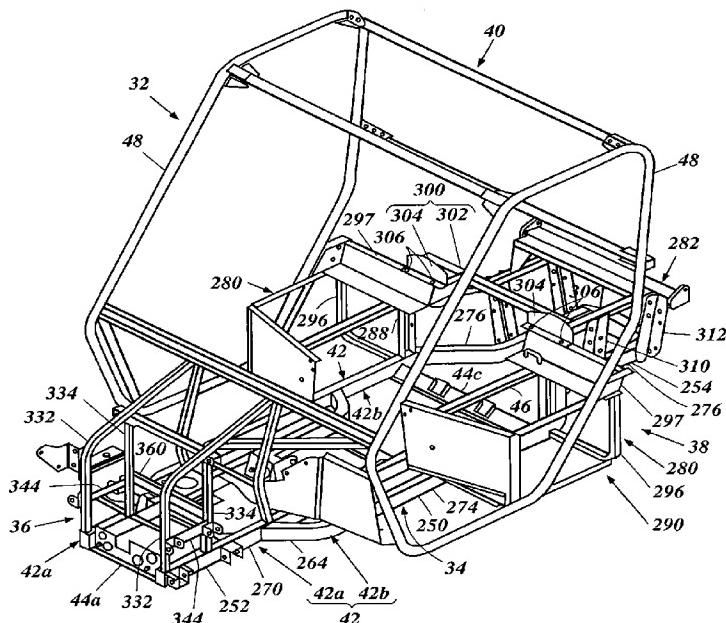


Figure 7

The present Specification, for example at paragraph [0113], explains that the reinforcement member 300 is detachably affixed and provide additional strength to the frame 32, yet allows a mechanical repair person to remove the reinforcement member 300 to access the portion of the engine unit 148 for maintenance or repairs. Additionally, Figure 7 clearly shows how the reinforcement member 300 connects the left and right side frame assemblies with connection devices, which can include bracket 304 and bolts 306.

Similar to new Claim 38, Claim 47 also recites an off-road vehicle including left and right seats, a prime mover disposed between the left and right seats, left and right side frame assemblies, and a removable cross frame member removably secured to the left and right frame assemblies.

During the interview, the Examiner also indicated that the cargo containers or storage boxes illustrated in the Cross, King, and/or Babbitt et al. references might be considered as serving as “removable frame member”. In response, Applicants representative indicated that such

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load containers should not be considered removable "frame members", because the load containers disclosed in these references do not necessarily provide additional strength to the frame.

As discussed during the interview, it has long been established that:

To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is **necessarily present** in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

MPEP § 2112 ¶ IV (emphasis added).

Thus, as discussed in the interview, the load containers of the various references cannot be considered "frame members" as recited in Claims 38-49, because they do not necessarily provide additional strength to the frame of the vehicle. Rather, such load containers might be mounted to the frames of the associated vehicles in a manner that prevents loads from being transferred from the frame to the load container.

In contrast, the present Specification explains the following:

[0113] . . . As such, the reinforcement member 300 provides additional strength to the frame 32 and aids in protecting the engine unit 148, yet allows a mechanic or repair person to remove the reinforcement member 300 to access the portion of the engine unit 148 for maintenance or repairs.

Present Specification, paragraph [0113].

As discussed during interviews, none of the cited references teach or disclose such a configuration of a frame for an off-road vehicle. Thus, Applicants submit that new Claims 38 and 47 clearly and non-obviously define over the cited references. Additionally, Applicants submit that new Claims 39-46 and 48-49 also defined over the cited references, not only because they depend from one of Claims 38 or 47, but also on their own merit.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this

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application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Patents and Co-Pending Applications of Assignee

Applicants wish to draw the Examiner's attention to the following patents co-pending applications of the present application's assignee.

Serial Number	Title	Filed	Atty Docket No.
10/791,111 (Patented)	ENGINE ARRANGEMENT FOR OFF-ROAD VEHICLE	March 2, 2004	FY.51034US1A
10/791,353 (Patented)	DRIVE SYSTEM FOR OFF-ROAD VEHICLE	March 2, 2004	FY.51035US1A
10/790,932 (Patented)	AIR INTAKE SYSTEM FOR OFF-ROAD VEHICLE	March 2, 2004	FY.51036US1A
10/792463 (Patented)	FLOOR ARRANGEMENT FOR OFF-ROAD VEHICLE	March 2, 2004	FY.51037US1A
10/794,132 (Patented)	STEERING SYSTEM FOR OFF-ROAD VEHICLE	March 5, 2004	FY.51038US1A
10/791,164 (Patented)	OFF ROAD VEHICLE WITH AIR INTAKE SYSTEM	March 2, 2004	FY.51039US1A
11/775,772	OFF ROAD VEHICLE WITH AIR INTAKE SYSTEM	July 10, 2007	FY.51039US2C1
10/796,692 (Patented)	OFF-ROAD VEHICLE WITH WHEEL SUSPENSION	March 9, 2004	FY.51040US1A
10/803,274 (Patented)	TRANSMISSION FOR OFF-ROAD VEHICLE	March 18, 2004	FY.51043US1A
11/775,442	TRANSMISSION FOR OFF-ROAD VEHICLE	July 10, 2007	FY.51043US2C1

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CONCLUSION

Applicants respectfully submit that the above rejections and objections have been overcome and that the present Application is now in condition for allowance. Therefore, Applicants respectfully request that the Examiner indicate that Claims 1, 5-26, and 29-37 are now acceptable and allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 17, 2009 By: /Michael Guiliana/
Michael A. Guiliana
Registration No. 42,611
Attorney of Record
Customer No. 20995
(949) 760-0404

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